

ORAL ARGUMENT NOT YET SCHEDULED
No. 22-1080 (and consolidated cases)

**In the United States Court of Appeals
for the District of Columbia Circuit**

NATURAL RESOURCES DEFENSE COUNCIL,
Petitioners,

CLEAN FUELS DEVELOPMENT COALITION, ET AL.,
Intervenors for Petitioners,

v.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, ET AL.,
Respondents,

CITY AND COUNTY OF DENVER, COLORADO, ET AL.,
Intervenors for Respondents.

On Petition for Review from the
National Highway Traffic Safety Administration
(No. NHTSA-2021-0053)

**UNOPPOSED MOTION OF INTERVENORS IN SUPPORT OF
PETITIONERS TO AMEND BRIEFING SCHEDULE**

Intervenors in support of petitioners move this Court to amend its briefing schedule to clarify that intervenors are entitled to file a reply brief, as Circuit Rule 28 contemplates. In support of their motion, intervenors make the following statements:

1. Under D.C. Circuit Rule 28(d)(5), an intervenor on the side of petitioner is entitled to file a reply brief at the same time the petitioner's reply

brief is due. *See* D.C. Cir. R. 28(d)(5) (“A reply brief may be filed for an intervenor on the side of appellant or petitioner at the time the appellant’s or petitioner’s reply brief is due.”).

2. The Court’s September 22, 2022 order set a briefing schedule in this case that listed reply briefs for two sets of petitioners: (1) the coalition of State Petitioners and American Fuel & Petrochemical Manufacturers, and (2) the Natural Resources Defense Council. Both petitioners’ reply briefs are limited to half the words of their respective opening briefs, and both are due on April 14, 2023.

3. Intervenors understand that the parties’ joint proposed briefing schedule inadvertently omitted a reply brief for intervenors in support of petitioners.

4. On December 8, 2022, intervenors filed an opening brief that, per this Court’s scheduling order, was limited to 5,000 words.

5. Intervenors respectfully ask this Court to amend the briefing schedule in this case to clarify that intervenors in support of petitioners are entitled to the same default reply brief as both petitioners—*i.e.*, a brief limited to half the words of their opening brief. More specifically, intervenors request

that the Court add a line to its scheduling order stating: intervenors for petitioners' reply brief (not to exceed 2,500 words) is due on April 14, 2023.

6. Counsel for intervenors have conferred with counsel for petitioners and respondents. No party opposes this motion.

Respectfully submitted,

/s/ Jeffrey B. Wall

JEFFREY B. WALL

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DECEMBER 21, 2022

CERTIFICATE OF COMPLIANCE

This Motion complies with Federal Rule of Appellate Procedure 27(d)(2) because it contains 301 words.

This Motion also complies with the requirements of Federal Rule of Appellate Procedure 27(d)(1) because it was prepared in 14-point font using a proportionally spaced typeface.

/s/ Jeffrey B. Wall

JEFFREY B. WALL

DECEMBER 21, 2022

CERTIFICATE OF SERVICE

I hereby certify that, on this 21st of December, 2022, I electronically filed the foregoing Motion with the Clerk for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system. I certify that service will be accomplished by the CM/ECF system for all participants in this case who are registered CM/ECF users.

/s/ Jeffrey B. Wall

JEFFREY B. WALL

DECEMBER 21, 2022